XIIIA

REPORT

OF THE

CALCUTTA COURT OF SMALL CAUSES

FOR THE YEAR 1883.

Calcutta:
PRINTED AT THE BENGAL SECRETARIAT PRESS.
1884.

No. 20.

FROM

THE JUDGES OF THE COURT OF SMALL CAUSES OF CALCUTTA,

To

THE SECRETARY TO THE GOVERNMENT OF BENGAL,
JUDICIAL DEPARTMENT.

Dated Calcutta, the 22nd March 1884.

SIR,

WE have the honour to forward, for submission to His Honor the Lieutenant-Governor, the report and statements of the business of this Court for the year 1883.

2. A copy of our Annual Report to the High Court is herewith annexed, from which the working of the Court will appear. There is a decrease of 3,526 suits as compared with 1882, but for the first six months of that year Act IX of 1850 was in force.

3. But it is to be noticed that this decrease of 3,526 suits does not really represent such a decrease in litigation or the work of the Court as might be supposed. As pointed out in paragraph 5 of our letter to the High Court, allowance must first be made for 323 claims under section 278 of the Code of Civil Procedure. These are in all respects treated and tried as ordinary cases, except that they no longer pay institution fees and costs, and are not shown in the returns as cases. Under the repealed Acts and former returns they were treated as interpleader suits, and paid for and shown as ordinary cases. Again under the old practice the power of non-suits was freely exercised by plaintiffs and the Court, especially in small cases. If a plaintiff, for any reason, could not proceed with his suit on the day of hearing, he elected a non-suit; or if he were absent, or failed to prove his case in all particulars to the satisfaction of the Court, he was not unfrequently non-suited by the Court. In 1881, the last complete year under the old practice, the number of cases non-suited was 2,398, against 920 withdrawn in 1883. These non-suited cases to a considerable number—probably one-half at least—were reinstituted at the convenience of the plaintiffs; they came on the files again as fresh suits, paying fresh costs, and so swelled the number of suits and the treasury of the Court. The practice of non-suit no longer exists, and so cases which under that practice would have been non-suited are now dismissed. If they are dismissed for want of appearance or otherwise under sections 97, 98, or 102 of the Code, they no longer come on the file as fresh suits paying fresh costs, but applications for restoration and rehearing are made under sections 99 or 103. The result is that the work of the Court in respect of these cases has not decreased to the extent which might be inferred from a reference to the figures merely, while the new procedure throws, in some respects, additional work on the Court which is nowhere shown in the returns. The plaintiff has (1) to make an application on grounds to have his case restored; (2) on its admission he has to serve a copy of it on the defendant, calling on him to show cause why the case should not be restored and heard; (3) the parties have then, on a day fixed, to appear on the rule, which has to be heard and determined; (4) if the plaintiff obtains his order, the case has again to be set down for hearing and heard. Under the old practice a plaintiff might file his suit the day after he had been non-suited, and the case

would come on as an ordinary summons case a week later. Now the plaintiff is put to at least four, and the defendant to two, attendances, at intervals of two, three, and four weeks, or longer, before the case is finally determined, and the time of the Courts is occupied with two more pieces of business in each of these cases than under the previous practice. The public time is occupied and the general business of the Court retarded. This is one of the reasons why, with a smaller number of cases, there are heavier arrears at the close of each year than under the old system. A great deal of the Court's time is now occupied with miscellaneous business and applications of all kinds, and the tendency is to increase these matters. The work of the Judges would seem to be measured by the number of suits only. We desire to point out that this is a fallacious mode of judging either of their work or responsibilities under the new Act and procedure, both of which have very considerably increased.

4. The financial working is still satisfactory, there being a balance of Rs. 71,954, as against Rs. 66,701 of last year, being an increase of Rs. 5,253.

5. One item of Rs. 227-3 in statement No. 7 requires some explanation, as it is unusually large. The money was paid to a Mrs. F. A. Lavaller, an Eurasian widow with two or three children. After some enquiry it appeared that she had borrowed the money shortly after her husband's death, as it was at that time known that her husband was entitled to some money under a will, and it was in expectation of this that the money was borrowed. It turned out however that, unknown to her, her husband had forestalled the amount due, so that she was unable to pay her debt. As there was a good balance then to the credit of the Charity Fund, the application was granted in order to save her going to jail, as she was at the time under arrest in execution of the decree against her.

6. With reference to the Government of Bengal endorsement No. 1477J.D., dated 22nd March 1883, we would ask whether it is necessary that statements 1 to 6 should still be kept up, as they are now provided for (though not in such detail) in the forms furnished to the High Court.

We have the honour to be,

SIR,

Your most obedient servants,

H. MILLETT,
KOONJO LAL BANERJEE,
R. S. T. MACEWEN,
G. C. SCONCE,
} *Judges.*

No. 1.

Comparative Statement of Fees (in stamp) realized in the Court of Small Causes of Calcutta and credited to Government in 1882 *and* 1883.

Months.	Institution Summons, Process, and Other Fees. In 1882.	Institution Summons, Process, and Other Fees. In 1883.	Increase or decrease + (plus) or — (minus).	Remarks.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	
January	27,578 15 6	28,296 4 6	717 5 0	*N.B.*—The figures with minus sign indicate decrease.
February	26,712 6 6	22,488 4 0	—4,224 2 6	
March	28,699 8 6	24,056 2 0	—4,643 6 6	
April	21,204 12 6	22,107 13 0	903 0 6	
May	26,452 8 6	25,058 11 6	—1,393 13 0	
June	26,700 15 0	25,759 11 0	—941 4 0	
July	20,077 5 0	24,977 12 6	4,900 7 6	
August	27,070 5 0	31,869 15 6	4,799 10 6	
September	29,711 14 6	29,304 5 0	—407 9 6	
October	10,005 6 6	4,829 2 6	—5,176 4 0	
November...	10,894 8 0	21,121 7 0	10,226 15 0	
December	19,405 7 6	20,469 12 6	1,064 5 0	
Total ...	2,74,514 1 0	2,80,339 5 0	5,825 4 0 or increase 1·02 per cent. nearly.	

	Rs. A. P.
Total increase	22,611 11 6
Less total decrease	16,786 7 6
Net increase	5,825 4 0

Court of Small Causes of Calcutta,
The 22nd March 1884.

Thomas Jones,
Registrar.

No. 2.

Abstract Statement of Sums received and paid out to Suitors and others in the Court of Small Causes of Calcutta from 1*st January to* 31*st December* 1883.

Months.	Cash received on account of suitors, &c.	Cash paid out to suitors, &c.
	Rs. A. P.	Rs. A. P.
January	31,382 15 2	40,365 0 5
February	26,851 5 8	28,051 1 2
March	33,529 9 4	29,976 11 1
April	36,644 14 1	37,515 15 3
May	38,209 8 3	39,318 14 9
June	33,427 10 0	34,709 13 11
July	30,952 4 5	30,541 6 0
August	37,657 6 0	34,168 11 8
September	47,618 7 10	38,705 8 5
October	18,004 3 11	20,422 13 11
November	27,807 1 10	29,619 5 1
December	20,252 15 2	29,438 14 9
Total ...	3,82,338 5 8	3,92,834 4 5

Court of Small Causes of Calcutta,
The 22nd March 1884.

Thomas Jones,
Registrar.

No. 3.

Statement showing the Statistics of the Distraint Department of the Court of Small Causes of Calcutta from 1st January to 31st December 1883.

Months.	Amount of rent for which distresses were issued.			Commission and fees realized in stamp.		
	Rs	A.	P.	Rs.	A.	P.
January	3,475	2	6	526	4	0
February	2,133	3	6	328	12	0
March	1,726	14	0	277	8	0
April	4,445	12	3	656	12	0
May	3,162	12	6	471	4	0
June	3,396	2	6	544	4	0
July	3,273	15	9	527	0	0
August	2,215	14	8	353	12	0
September	6,271	15	9	889	8	0
October	250	4	0	45	12	0
November	1,784	12	3	284	12	0
December	1,771	1	3	201	12	0
Total ...	33,907	14	11	5,197	4	0

COURT OF SMALL CAUSES OF CALCUTTA,
The 22nd March 1884.

THOMAS JONES,
Registrar.

No. 4.

Statement showing the Amount of Fine realized in cash in the Court of Small Causes of Calcutta between 1st January and 31st December 1883.

Months.	Amount.			Months.	Amount.		
	Rs.	A.	P.		Rs.	A.	P.
January	.....			July	1	0	0
February	.....			August	7	8	0
March	40	0	0	September	4	0	0
April	150	0	0	October	.....		
May	2	0	0	November	.....		
June	5	8	0	December	1	0	0
				Total ...	211	0	0

COURT OF SMALL CAUSES OF CALCUTTA,
The 22nd March 1884

THOMAS JONES,
Registrar.

No. 5.

Statement showing the Charges under the following detailed heads of the Court of Small Causes of Calcutta for the year 1883.

Months.	Salary of Judges and Registrar.			Serving officers and bailiffs.			Others.			Contingencies.			Refund of stamp duty.			Total.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
January	7,450	0	0	1,608	12	0	4,627	12	3	56	6	6	3,624	4	0	17,367	2	9
February	7,450	0	0	1,640	12	0	4,626	7	9	69	7	6	3,649	0	3	17,435	11	6
March	7,597	5	1	1,688	14	0	4,635	0	0	66	10	0	3,681	0	6	17,668	13	7
April	7,858	[illegible]	0	1,779	2	0	4,671	14	9	125	12	0	4,395	12	6	18,831	7	3
May	7,876	[illegible]	0	1,762	0	0	4,672	9	0	209	3	3	3,219	0	3	17,739	9	6
June	7,637	14	4	1,666	9	6	4,635	0	0	298	8	0	4,173	2	6	18,411	2	4
July	7,275	0	0	1,559	6	0	4,635	0	0	131	2	6	4,136	11	6	17,737	4	0
August	7,275	0	0	1,640	6	0	4,730	6	0	306	8	0	4,002	7	9	18,044	6	9
September	7,275	0	0	1,653	13	3	4,743	8	9	307	0	3	4,783	7	0	18,761	8	3
October	7,275	0	0	1,747	1	3	4,756	0	0	103	10	9	1,924	14	0	15,806	10	0
November	7,275	0	0	1,477	14	0	4,756	0	0	121	4	0	2,552	14	6	16,183	0	6
December	7,356	10	8	1,529	8	0	4,756	0	0	88	13	9	3,297	4	0	17,028	4	5
Total ...	89,602	0	1	19,753	2	0	56,245	5	6	1,884	1	6	43,529	14	9	2,11,014	7	10
Chief Judge	30,000	0	0	Includes Rs. 4,238 on account of commission.														
Second "	16,200	0	0															
Third "	16,200	0	0															
Fourth "	11,279	9	0															
Registrar	15,923	7	1															
Total ...	89,602	0	1															

COURT OF SMALL CAUSES OF CALCUTTA,
The 22nd March 1884.

THOMAS JONES,
Registrar.

No. 6.

Statement showing the Receipts under the following detailed heads of the Court of Small Causes of Calcutta for the year 1883.

Months.	Institution summons, process, and other fees.	Fines.	Unclaimed suitors' money.	Other receipts.	Total.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
January	28,296 4 6	.....	.....	0 5 0*	28,296 9 6
February	22,488 4 0	.....	.....	0 2 0†	22,488 6 0
March	24,056 2 0	40 0 0	535 8 0	0 1 0†	24,631 11 0
April	22,107 13 0	150 0 0	201 11 11	...	22,459 8 11
May	25,058 11 6	2 [illegible] 0	168 12 0	... .	25,229 7 6
June	25,759 11 0	5 8 0	239 6 3	.....	26,004 9 3
July	24,977 12 6	1 0 0	246 2 9	.....	25,224 15 3
August	31,869 15 6	7 8 0	186 3 9	... ..	32,063 11 3
September	29,304 5 0	4 0 0	332 14 9	...	29,641 8 9
October	4,829 2 6	... .	115 13 3	12 8 0‡	4,957 7 9
November	21,121 7 0	... ..	217 7 9	.....	21,338 14 9
December	20,469 12 6	1 0 0	160 10 0	.....	20,631 6 6
Total ...	2,80,339 5 0	211 0 0	2,404 10 5	13 0 0	2,82,967 15 5

* Cash recovery.
† Recovery of postage charge.
‡ Value of money-order unclaimed.

COURT OF SMALL CAUSES OF CALCUTTA,
The 22nd March 1884.

THOMAS JONES,
Registrar.

No. 7.

Statement of Indigent Debtors relieved from the Charity Fund of the Court of Small Causes of Calcutta in the year 1883 (vide *Government letter No.* 870*T*, *dated* 1*st October* 1863).

Date and Month.	Names of parties relieved.	Amount.
		Rs. A. P.
13th April	J. W. Gibbs (by order of the Chief Judge)	47 0 0
5th June	R. DeCosta ditto	25 2 6
3rd July	F. A. Lavale ditto	227 3 3
Ditto	R. DeCosta ditto	25 2 3
3rd August	W. Scott ditto	10 15 0
Ditto	S. A. Twidale ditto	74 11 0
5th September	Mrs. Kissick ditto	17 0 0
30th November	Mrs. Grocer ditto	55 7 6
4th December	Edward DeRozario (by order of the Second Judge) ...	5 0 0
	Total ...	487 9 6

COURT OF SMALL CAUSES OF CALCUTTA,
The 22nd March 1884.

THOMAS JONES,
Registrar.

No. 16, dated Calcutta, the 15th February 1884.

From—The Judges of the Court of Small Causes of Calcutta,
To—The Registrar of the High Court of Judicature at Fort William in Bengal, Appellate Jurisdiction.

WE have the honour to submit our report to the Hon'ble Judges of the High Court of the business of this Court for the year ending the 31st December 1883.

2. We regret that we have been unable in their entirety to fill up the new sets of forms forwarded with your letter to the Chief Judge, No. 741, dated the 28th March 1883, which was received on the following day. To do this would have necessitated the inspection of more than seven thousand plaints filed between the 1st January and that date, and could not have been done unless an extra establishment had been sanctioned for the express purpose. At the same time we have been able to fill in judicial forms Nos. 5, 6, and 7 of the new sets of forms. With the commencement of the year 1884, things are in working order for filling up the forms as required in your letter.

3. The number of suits instituted during the year was 26,027, as against 29,553 in the year 1882. The following comparative table shows the increase and decrease of institutions during the year:—

Value of Suits.	1882.	1883.	Increase.	Decrease.
Up to Rs. 10	10,776	8,387	.....	2,389
" 50	12,130	11,020	.....	1,110
" 100	2,851	2,776	.....	75
" 500	3,050	3,024	.....	26
" 1,000	612	505	.....	107
Over Rs. 1,000	134	315	181	.....
	29,553	26,027	181	3,707
Deduct increase ...	.....	.....	.....	181
Net decrease ...	.....	.....	.....	3,526

4. The cases were disposed of as follows:—

Pending in 1882	1,557
Instituted in 1883	26,027
	27,584
Decreed in favour of plaintiff after contest	3,859
Ditto without ditto	7,478
Dismissed after trial	1,352
Withdrawn with leave	920
Compromised	9,599
Dismissed for default or want of prosecution	2,514
Dismissed uncontested	61
Pending at the close of the year	1,801
	27,584

Miscellaneous cases amounted to 461, not including commissions to examine witnesses and processes sent from mofussil Courts for service.

5. There is still a decrease in the number of institutions as compared with the year 1882, but we venture to state that a comparison of the two years is not a correct test, for the old procedure was still in force up to 1st July 1882, and it is to the new procedure, as stated in last year's Report, that we attribute the falling off in suits, especially in those of a smaller value. A comparison of the years 1883 and 1884 may possibly be a reasonable comparison. We remark, however, that the institution of suits of a value above Rs. 1,000 is high. In paragraph 9 of our Annual Report for the year 1882, we stated that we were led to expect 200 to 250 for the whole year. It may be inferred therefore that the Court is a popular tribunal for suits of the higher values, suits which require not only more care and attention, but also a greater length of time for trial when contested. Claims under section 278 of the Code of Civil Procedure, which in the Report for the year 1882 appeared in the classification of suits, this year no longer so appear. They amount to 323, and have not increased to the extent we were led to expect. Had such claims still been registered as suits, the decrease of the year under review would have been less by that number.

6. Making allowance for the decrease in the number of suits, there is no material change in the classes of suits. In these there must necessarily be considerable fluctuation, but in no case is the fluctuation so great as to call for any remark. Several suits, however, were the outcome of the rise in the price of jute and in the fall in the share market which took place in the second half of the year.

7. There has been some increase in the number of applications for execution of decrees, and this notwithstanding the decrease in the institution of suits. This is accounted for by the fact that the Code of Civil Procedure gives greater facilities to decree-holders for executing their decrees than formerly existed under the old procedure of the Court. Partly to this cause, and partly to decrees being for higher sums, may further be attributed the increase in the amounts realized in execution of decrees. This amount is Rs. 4,28,762, as against Rs. 3,97,793 in the year 1882, showing an increase of Rs. 30,969. The amount realized by the Court bailiff on sales held in execution of decrees is Rs. 942 in excess of the previous year.

8. It is a good sign that the amount of rent for which distresses were issued was only Rs. 33,907-14-11, as against Rs. 65,394-0-6 for the previous year, and that out of 471 applications for distress warrants there was necessity for only 73 sales.

9. After paying all expenses, the balance credited to Government was Rs. 71,954, and this compares most favorably with previous years.

10. Three thousand and fifty-three processes were sent from the mofussil Courts for service by this Court. Of these 2,115 were served and 89 remain in hand. This gives an increase of 294 above the number served last year.

11. Nine hundred and forty-eight applications under section 18 of Act XV of 1882 were presented during the year, of which 868 were allowed and 80 refused. This shows that in nearly one-twenty-sixth of the suits instituted either all or some of the defendants were resident out of the jurisdiction.

12. When we submitted our last Report, Act XV of 1882 (Presidency Small Cause Courts' Act, 1882) had been in force only six months, and there had been a decrease of 4,555 suits on the returns for the whole year. This falling off was confined, as we pointed out, almost entirely to suits below Rs. 50, and followed immediately on the introduction of the new Act. In other words, it represented the effect of the new procedure upon small suits during the last six months of the year 1882. We attributed this result in a greater measure to the effect of sections 36 and 37 of the Code of Civil Procedure on small suits, and pointed out how much more troublesome it was to file and conduct a suit under the Code than under the old practice. This was a point upon which some of us held a strong opinion all along, and lost no opportunity of bringing it under the notice of the Legislature during the passage of the Bill. When the Bill became law and modifications of the Code under section 23 of the Act were under consideration, the local Government consulted its law officers, and on their advice it was finally determined to retain the sections without modification. The attention of the Government of India has since been drawn to the subject, and that Government has expressed the opinion that "the complaints, especially so far as the pettier classes of suits are concerned, do not seem to be entirely groundless, but to involve matters which cause substantial inconvenience and hardship to suitors. Indeed the large diminution in the number of suits filed in the Calcutta Court since the new Act came into operation, notwithstanding the fact that the jurisdiction of the Court now embraces suits of twice the pecuniary value admissible under the former Act, is attributed by the Judges (paragraphs 6, 7, and 8 of the Annual Report to the High Court for 1882), and apparently with justice, to the more elaborate and exacting practice connected with the representation of parties, which was introduced with the enactment now in operation. A similar result was produced by like causes on the files in the Court of Small Causes at Madras." Those of us who held that these sections were unsuited to this Court predicted the results which have occurred and are now admitted. The Government of India has accordingly invited a reconsideration of this subject, and we have, under the orders of the Government of Bengal, proposed the omission from the Code, as applicable to this Court, of sections 37 and 41, and have suggested the substitution of a rule of practice which will give greater facilities for the representation of parties in suits. If the Government of Bengal should sanction these suggestions, a rule will, in due course, be submitted for the approval of the Hon'ble the Judges of the High Court.

13. The court-house, record-room, and library are in good order The space for records is still limited, and when alterations next take place in the building, more accommodation will have to be set aside for the records, which go on accumulating in number and bulk.

ANNUAL STATEMENT 2 (CIVIL).

Statement showing the Number and Description of Civil Suits instituted in the Civil and Revenue Courts in the Court of Small Causes of Calcutta in the year 1883.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

Suits for money or movable property—

2.	Contract in writing	4,815
3.	Contract not in writing	2,477
4.	On account stated	964
5.	Money had and received	518
6.	Goods sold	9,002
7.	Wages, work, and materials	3,855
8.	Rent not falling under the Rent Law	2,739
9	Movable property or value thereof	296
10.	Damages	449
11.	Other suits for money or movables not already mentioned ...	912
12.	Total	26,027

COURT OF SMALL CAUSES OF CALCUTTA,
The 15*th February* 1884

THOMAS JONES,
Registrar.

ANNUAL STATEMENT 3 (CIVIL).

Statement showing Number and Value of Suits instituted in the Civil and Revenue Courts in the Court of Small Causes of Calcutta in the year 1883.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

Number of suits instituted in the different Courts—

Value not exceeding Rs. 10—		
2.	Suits for money or movables	7,829
4	Title and other suits	558
Value not exceeding Rs. 50—		
5.	Suits for money or movables	9,777
7	Title and other suits	1,243
Value not exceeding Rs. 100—		
8.	Suits for money or movables	2,401
10.	Title and other suits	375
Value not exceeding Rs. 500—		
11.	Suits for money or movables	2,732
13.	Title and other suits	292
14.	Value not exceeding Rs. 1,000	505
15.	Value not exceeding Rs. 5,000	315
20.	Total	26,027
21.	Total value of suits	19,89,465-0-8¾-7¼ gundas.

COURT OF SMALL CAUSES OF CALCUTTA,
The 15*th Februarg* 1884.

THOMAS JONES,
Registrar.

ANNUAL STATEMENT 4 (CIVIL).

PART I.—CIVIL SUITS.—*Statement showing the general result of the trial of Civil and Revenue Cases in the Court of Small Causes of Calcutta in the year* 1883.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

Number of suits before the Courts—		
2.	Pending from last year	1,557
3.	Instituted in 1883	26,027
8.	Total for disposal	27,584
Number of suits disposed of—		
Without trial—		
11.	Dismissed for default or want of prosecution	2,514
12.	Withdrawn with leave	920
Without contest—		
13.	Compromised	9,599
14.	Decreed on confession	1,931
15.	Decreed *ex parte*	5,547
16.	Dismissed *ex parte*	61
On reference to arbitration—		
17.	For plaintiff	326
18.	For defendant	125
With contest—		
19.	Judgment for plaintiff in whole or part	3,533
20.	Judgment for defendant	1,227
21.	Total disposed of, omitting transfers	25,783
22.	Pending at close of year	1,801
23.	Number of cases pending more than three months at the close of the year	359
Average duration of suits—		
Contested—		
24.	Number of cases (columns 17 to 20)	5,211
25.	Aggregate number of days occupied in trial	3,72,876
26.	Average number of days	71·5
Uncontested—		
27.	Number of cases (columns 10 to 16)	20,572
28.	Aggregate number of days occupied in trial	2,55,846
29.	Average number of days	12·04

30. REMARKS —Number of days the Court sat, 266.

COURT OF SMALL CAUSES OF CALCUTTA,
The 15*th February* 1884.

THOMAS JONES,
Registrar.

ANNUAL STATEMENT 4 (CIVIL).

PART II.—MISCELLANEOUS CASES (JUDICIAL).—*Statement showing the general result of the trial of Civil and Revenue Cases in the Court of Small Causes of Calcutta in the year* 1883.

COURTS AT THE PRESIDENCY.

PRESIDENCY SMALL CAUSE COURT.

2.	Suits remaining from last year	5
3.	Instituted in 1883	463
8.	Total for disposal	468
Disposed of—		
Without contest—		
15.	Decreed *ex parte*	424

With contest—

19.	Judgment for plaintiff in whole or part	9
20.	Judgment for defendant	28
21.	Total of cols. 10 to 20, *i.e.*, disposed of, omitting transfers ...	461
22.	Pending at close of year	7

26. REMARKS.—Miscellaneous cases include only commissions received and executed by the Court as coming from other Courts and distraint cases (not being interpleader claims) under the Distraint Act, 1875. In the latter class of cases for the purpose of this statement landlords are considered as plaintiffs and tenants as defendants. The total of 461 in column 21 relates to distraint cases only. Commissions executed cannot be included under these heads.

COURT OF SMALL CAUSES OF CALCUTTA,
The 15th February 1884.

THOMAS JONES,
Registrar.

JUDICIAL No. 5.

Showing the result of proceedings on applications for the execution of decrees in the Court of Small Causes of Calcutta in the year 1883.

1.	Number of applications pending on the 1st January 1883 ...	355
	File—	
2.	The decrees being those of the Court where execution is taken out	14,448
3.	The decrees being those of other Courts transferred for execution	198
4.	Total	15,001
	Application disposed of—	
5.	Transferred to another Court under section 223	412
6.	Completely executed	5,389
7.	Partly executed	5,221
8.	Wholly infructuous	3.570
9.	Total	14,592
10.	Pending at end of year	409

		Rs.	A.	P.
	Amount realized—			
11.	With the issue of process	2,11,407	3	5
12.	Without the issue of process	2,17,355	0	2

	Number of applications on which—	
13.	The judgment debtor was imprisoned	370
14.	He was arrested under section 336 but released without imprisonment	329
15.	Property was sold	563
16.	Property was attached but released	1,855
17.	Possession was given of immoveables	29

COURT OF SMALL CAUSES OF CALCUTTA,
The 15th February 1884.

THOMAS JONES,
Registrar.

JUDICIAL FORM No. 6.

Showing the statistics of the Distraint Department of the Court of Small Causes of Calcutta for the year 1883.

Number of applications—		
1.	Pending on the 1st January 1883	5
2.	Admitted	463
3.	Refused or withdrawn	3
4.	Total	471
Number of distresses—		
Compromised—		
5.	Before distress	35
6.	After distress	300
7.	Number of sales	73
8.	Distresses set aside	28
9.	Unexecuted	25
		Rs. A. P.
10.	Amount of rent for which distresses were issued ...	33,907 14 11
11.	Amount realized by sale	3,777 15 6
12.	Amount levied and paid into Court	15,009 1 11
13	Commission and fees realized	5,197 4 0

14. REMARKS.—Pending at the end of the year 1883, 7.

COURT OF SMALL CAUSES OF CALCUTTA,
The 15*th February* 1884.

THOMAS JONES,
Registrar.

JUDICIAL FORM No. 7.

Showing the Receipts and Charges of the Court of Small Causes of Calcutta for the year 1883.

		Rs.
Receipts—		
In Small Cause Court Stamps—		
1.	Institution summons and process fees	2,70,967
2.	Other fees	372
In Cash—		
3.	Fines	211
4.	Other receipts	2,418
5.	Total	2,82,968
Charges—		
6.	Salaries of Judges and Registrar—	
	Chief Judge	30,000
	Second Judge	16,200
	Third Judge	16,200
	Fourth Judge	11,280*
	Registrar	15,922†
	Total	89,602
Establishment—		
7.	Serving officers and bailiffs	19,753‡
8.	Others	56,245
9.	Contingencies	1,884
10.	Refunds	43,530
11.	Total	2,11,014
12.	Excess of column 5 over column 11, being the amount credited to Government	71,954

* Includes leave allowance of Mr. Sconce paid in England from 19th May to 16th November 1883.
† Includes Rs 1,922, being salary of Mr L Sen, Officiating Registrar from 19th February to 16th November 1883, during the absence, on leave, of Mr. Jones, Baboo K L Banerjee, and Mr. Sconce.
‡ Includes Rs 4,233 on account of commission.
N.B.—Fraction of a rupee omitted.

COURT OF SMALL CAUSES OF CALCUTTA,
The 15*th February* 1884.

THOMAS JONES,
Registrar.

W. H. D'C.—Reg No. 15791J—250—1-4-84.

RESOLUTION.

JUDICIAL.

Dated Darjeeling, the 30th April 1884.

READ—

The Report of the Judges of the Small Cause Court of Calcutta for 1883.

The year under report was the first in which the Presidency Small Cause Court Act XV of 1882 was in force throughout.

2. The following statement will show the number of suits which came before the Court, and the disposal of them during the last three years :—

	1883.	1882.	1881.
Pending from the previous year	1,557	1,333	1,288
Instituted during the year	26,027	29,553	34,108
Total ...	27,584	30,886	35,396
Decreed in favour of plaintiff after contest ...	3,859	4,397	5,185
Ditto ditto without contest ...	7,478	8,141	9,326
Dismissed after trial	1,352	1,358	1,431
Nonsuited or withdrawn	920	1,641	2,398
Compromised	9,599	11,040	12,586
Dismissed for default of plaintiff	2,514	2,704	3,085
Dismissed uncontested	61	48	52
Pending at close of year	1,801	1,557	1,333
Total ...	27,584	30,886	35,396

The working of the new procedure has thus resulted in an apparent decrease of 3,526 suits as compared with 1882. In that year Act IX of 1850 was in force for the first six months, and the present Act during the last six, and there was a decrease of 4,555 suits as compared with 1881, the last complete year under the former Act. Comparing, therefore, the institutions of the last year of the old procedure (1881) with the first year of the new procedure (1883), it appears that there has been a decrease under the latter of 8,081 suits. Part of this very large decrease is undoubtedly merely nominal. As pointed out by the Judges, investigation under section 278 of the Civil Procedure Code, of claims to and objections to attachment of property attached in execution of a decree, are no longer treated as interpleader suits. They are tried as ordinary cases, but are not shown as such in the returns. The number of these claims last year was 323. Again, under the old procedure, parties nonsuited under sections 42 and 53 of the Act. frequently re-instituted their suits, and these were shown as fresh cases. The practice of nonsuit being abolished, these can come on the file only as applications for restoration and re-hearing. Making allowance, however, for these nominal reductions caused by changes in the law, it is plain that, so far as the years above-mentioned afford the means of comparison, there has been a great and real decrease in the number of suits instituted since the new Act has come into force. This is chiefly remarkable in the suits of values up to Rs. 10. These have fallen from 10,776 in 1882 to 8,387 in 1883, a decrease of 2,389. In the next class, that of values up to Rs. 50, there has also been a considerable diminution, the number in 1882 being 12,130 and in 1883, 11,020. The same decrease is noticeable, though to a smaller extent, in all the other classes except in that of over Rs. 1,000; there would naturally be an increase in this class, as the Act extending the Court's jurisdiction was in force during the whole of 1883, but only during six months of 1882. A similar result followed the introduction of the Act in Madras, and its provisions have had, it is now plain, a distinct effect in discouraging suitors for small amounts. Under Act IX of 1850 the procedure was summary, and the Court was empowered to make and alter rules of practice. The speedy disposal of cases was thus much facilitated. The jurisdiction of the Court, which then embraced suits up to Rs. 500, was afterwards extended, first under Act XXVI of 1864 up to Rs. 1,000, and ultimately

under the present Act to Rs. 2,000. The simple procedure laid down in section 26 of Act IX of 1850 for the institution of suits has now been altered, and the provisions of sections 36, 37 and 41 of the Civil Procedure Code made applicable to the Small Cause Court, with the exception of clause *b* and the last paragraph of section 37. It is believed that the difficulties entailed upon suitors by these sections had mainly conduced to the decrease in the institution of suits, particularly of those of the smaller values. Petitions have been received from certain merchants and other inhabitants of Calcutta complaining of inconveniences. These complaints were briefly—

(1.) That in consequence of the extension to the Court of section 36 *et seq.* of the Code of Civil Procedure, suitors were no longer able to transact their business through the agency of their relatives, managers, servants or accredited agents, or of certified mukhtears of the Court, but were compelled either to appear in person or to employ a pleader.

(2.) That in the Court a stamp of the value of one rupee had to be used for powers-of-attorney instead of a court-fee stamp of the value of eight annas, as in the mofussil.

(3.) That suitors were no longer able to keep a decree alive by suing on the judgment of the Court, or by taking out execution before the expiry of three years

(4.) That plaintiffs experienced difficulty in drawing out from the Court money in which they were jointly interested.

There were also complaints regarding the appointment of pleaders as agents and the excessive fees demanded by them as such.

Some of these complaints appeared to the Lieutenant-Governor on investigation to be based on no sufficient grounds to justify interference; but later enquiries show that suitors were really inconvenienced by being compelled to appear in person or by pleader, unless residing beyond the limits of the Court's local jurisdiction; and that the law requiring a stamp of one rupee on powers-of-attorney, instead of eight annas, bore heavily on the poorer suitors. A notification reducing this duty to eight annas has already been issued by the Government of India. A rule relaxing the severity of sections 37 and 41, Civil Procedure Code, has been proposed by the Chief Judge of the Small Cause Court, and on the approval of it by the High Court, the necessary notification will be issued. The Lieutenant-Governor hopes that, with this relief and a better understanding of the new procedure, the smaller suitors will again have recourse to the Court.

3. The Lieutenant-Governor regrets to observe that in spite of the very large decrease in the number of suits instituted, the arrears have continued to increase; that the average number of days' duration of contested suits has risen from 54·8 to 71·5; and that the number of cases pending more than three months at the close of the year was 359, while in the year preceding it was only 228. The proportion of contested suits, whether decreed in favour of plaintiffs or dismissed after trial, to the total number of suits pending during the year, is nearly 19 per cent., almost exactly the same as in the previous year; yet the actual number disposed of was above 10 per cent. *less* than in 1882. The general explanation given by the Court is that the work has not decreased to the extent which might be inferred from the figures merely, as many applications, shown in former returns as cases, are no longer so shown, while the new procedure throws in certain respects additional work on the Court. There has been also a large increase in the number of institutions in suits of values over Rs. 1,000, which has added considerably to its labours. The Lieutenant-Governor is willing to accept the explanation, but he would be glad if some arrangement could be made by which all the miscellaneous work of the Court could be fully represented. As matters appear upon paper at present, less work has been done by the same number of Judges in 1883 than in preceding years; and though there may be no ground for supposing that the increase of arrears is due at all to want of attention on the part of the Judges, it is impossible, upon the facts which the report contains, to press on the Government of India the recommendation for the appointment of an additional Judge, or any increase to the pay of the present Judges.